

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Yakov Kamen et al.

Serial No.: 09/691,792

Filed: October 18, 2000

For: METHOD AND SYSTEM FOR
ADAPTIVE ELECTRONIC
PROGRAMMING GUIDE

Atty. Docket No.: 007287.00020

Group Art Unit: 2421

Examiner: Dominic D. Saltarelli

Confirmation No.: 5769

REPLY BRIEF

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Sir:

This *Reply Brief* is filed pursuant to 37 C.F.R. § 41.41 in response to the Examiner's Answer mailed January 4, 2010. Because Appellants believe that the examining corps' errors are readily ascertainable on the briefs, Appellants do not request an oral hearing at this time. However, if the Board of Patent Appeals & Interferences believes that an oral hearing would be beneficial, the Board is invited to contact Appellants' undersigned representative at (202) 824-3130.

Remarks

The Examiner's Answer at pp. 3-6 repeats the rejections in the final Office Action dated June 19, 2009, which were fully addressed in Appellants' Appeal Brief filed November 25, 2009. This Reply Brief addresses the Answer's "Response to Argument" beginning on page 6.

- I. ***Hendricks and Beer fail to teach or suggest receiving, at the broadcast receiving device, one or more presentation criteria for making the user requested modification from the broadcast source and modifying the electronic programming***

guide using the at least one of the one or more presentation criteria to display an electronic programming guide in accordance with the user request.

The Examiner's Answer alleges that the combination of Hendricks and Beer discloses the claim limitations of "receiving, at the broadcast receiving device, a user request to modify an electronic programming guide," and "receiving, at the broadcast receiving device, one or more presentation criteria for making the user requested modification from the broadcast source." *See* Examiner's Answer at p. 7. The Examiner's Answer also alleges that the claimed presentation criteria represent the types of changes a user is allowed to make to the interface. *Id.* The Examiner's Answer provides an example of the presentation criteria being "whether a user selects a green background." *Id.*

In addition to the receiving steps recited above, claims 10, 14, and 18 recite modifying the electronic programming guide *using the at least one of the one or more presentation criteria.* (Emphasis Added.) Notably, the electronic programming guide can not be modified using a *type of change* (as the Answer alleges constitutes a presentation criteria) a user is allowed to make to an interface, as suggested in the Examiner's Answer. The Examiner's Answer further asserts that "whether a user selects a green background" constitutes a presentation criteria. Applicants respectfully disagree. However, even assuming, without conceding, that "whether a user selects a green background" does constitute a presentation criteria, there is no teaching or suggestion in Beer or Hendricks of using the alleged presentation criteria (e.g., whether the user selects a green background) to modify the electronic programming guide. At most, the *result* of the decision "whether the user selects a green background" may be used to modify the EPG. However, if the decision "whether the user selects a green background" constitutes the presentation criteria, as asserted by the Answer and not admitted by Appellants, that decision itself is not used to modify the EPG, as recited in the independent claims. Accordingly, claims 10, 14, and 18 are allowable over the combination of Hendricks and Beer for at least this reason.

II. *Hendricks and Beer fail to teach or suggest determining, at the broadcast receiving device, at least one of the one or more presentation criteria corresponds to the user request*

The Examiner's Answer asserts that Beer discloses the claimed determining step because the PGUI (programmable graphical user interface) of Beer is located on the user's computer system. *See* Examiner's Answer at p. 8. Appellants respectfully disagree. As discussed in Appellants' Appeal Brief, Beer discloses a user being able to select from a variety of different visual styles for a user interface on a processor or application on a processor, by adding, deleting, and changing attributes for widgets or objects associated with the user interface. *See*, Beer, col. 3, lines 16-17. Nowhere in Beer is there a teaching or a suggestion that the PGUI *determines* whether one or more presentation criteria corresponds to a user request. As previously discussed in Appellants' Appeal Brief, determining whether a user selects a visual style for a user interface clearly does not constitute determining at the broadcast receiving device, *at least one or more presentation criteria corresponds to the user request*, as recited in independent claims 10, 14, and 18. Hendricks fails to cure the deficiencies of Beer with respect to the claimed determining step. Accordingly, independent claims 10, 14, and 18 are allowable over the combination of Beer and Hendricks for at least these reasons.

CONCLUSION

Appellants believe that the above reasoning presents the clearest arguments for overturning the rejection. For all the foregoing reasons, and based on the previously submitted arguments, Appellants respectfully request that the Board instruct the examining corps to withdraw the rejections and pass this case to issuance at its earliest convenience. If there are any questions or any additional information is required, please contact Appellants' undersigned representative at (202) 824-3130.

Respectfully submitted,
BANNER & WITCOFF, LTD.

Date: February 12, 2010

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